



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2016-0468; FRL-9957-52-Region 4]

Air Plan Approval; Georgia:

Procedures for Testing and Monitoring Sources of Air Pollutants

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve portions of State Implementation Plan (SIP) revisions submitted by the State of Georgia, through the Georgia Department of Natural Resources' Environmental Protection Division (GA EPD), on April 11, 2003, November 29, 2010, July 25, 2014, November 23, 2015, and November 29, 2016. The SIP submittals include changes to GA EPD's air quality rules that modify definitions. The portions of the SIP revisions that EPA is approving are consistent with the requirements of the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective [insert date 60 days after date of publication in the Federal Register] without further notice, unless EPA receives adverse comment by [insert date 30 days after date of publication in the Federal Register]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2016-0468 at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Lakeman can be reached by phone at (404) 562-9043 or via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On April 11, 2003, November 29, 2010, July 25, 2014, November 23, 2015, and November 29, 2016, GA EPD submitted SIP revisions to EPA for review and approval into the Georgia SIP that contain changes to a number of Georgia's air quality rules. The only change that EPA is approving into the SIP today modifies portions of Rule 391-3-1-.01—"Definitions" with respect to procedures for testing and monitoring sources of air pollutants. The change requested by Georgia is discussed below. EPA is not taking action on any other changes in

Georgia's submittals provided on April 11, 2003, November 29, 2010, July 25, 2014, November 23, 2015, and November 29, 2016, because these changes either do not address rule sections that are incorporated into the SIP or are being or have already been considered in a separate action.

II. EPA's Analysis of the State's Submission Regarding Rule 391-3-1-.01(nnnn) –

“Procedures for Testing and Monitoring Sources of Air Pollutants”

In the November 29, 2016, submittal, Georgia is amending the definition of “Procedures for Testing and Monitoring Sources of Air Pollutants” at Rule 391-3-1-.01(nnnn) to reference the February 29, 2016, version of the Georgia Department of Natural Resources document entitled “Procedures for Testing and Monitoring Sources of Air Pollutants.” The purpose of that document is to identify the procedures used for testing and monitoring the air pollutant sources. The November 23, 2015, submittal revised the date of the document to reflect the then-current version of the document, dated January 5, 2015; the July 25, 2014, submittal revised the date of the document to reflect the then-current version of the document, dated February 8, 2013; the November 29, 2010, submittal revised the date to the then-current version, dated March 1, 2010; and the April 11, 2003, submittal revised the date to the then-current version, January 29, 2003. However, the more current November 29, 2016, SIP submittal revised the date to reflect the February 29, 2016, version of the document, and this revision supersedes the revisions submitted on April 11, 2003, November 29, 2010, July 25, 2014, and November 23, 2015. This change to the SIP is approvable because it merely updates the date of the “Procedures for Testing and Monitoring Sources of Air Pollutants” document referenced in the SIP-approved version of Rule 391-3-1-.01(nnnn). The revision to this rule in the November 23, 2015, SIP submittal became state-effective on August 14, 2016.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia Rule 391-3-1-.01(nnnn) “Procedures for Testing and Monitoring Sources of Air Pollutants,” effective on August 3, 2015. Therefore, this material has been approved by EPA for inclusion in the SIP, has been incorporated by reference by EPA into that plan, is fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.¹ EPA has made, and will continue to make, these materials generally available through www.regulations.gov and/or at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

IV. Final Action

EPA is taking direct final action to approve the changes to the Georgia SIP specifically identified in Section II, above, because these changes are consistent with the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective **[insert date 60 days after date of publication in the Federal Register]** without further notice unless the Agency receives adverse comments by **[insert date 30 days after date of publication in the Federal Register]**.

If EPA receives such comments, then EPA will publish a document withdrawing the final

¹ 62 FR 27968 (May 22, 1997).

rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[insert date 60 days after date of publication in the Federal Register]** and no further action will be taken on the proposed rule.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to

publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Volatile organic compounds.

Dated: December 15, 2016.

Heather McTeer Toney,

Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart L--Georgia

2. In §52.570, the table in paragraph (c) is amended by revising the entry “391-3-1-.01” to read as follows:

§52.570 Identification of plan.

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(c) * * *

EPA Approved Georgia Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
391-3-1-.01	Definitions	8/14/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	
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[FR Doc. 2016-31753 Filed: 1/4/2017 8:45 am; Publication Date: 1/5/2017]